sonally or through the mails," if it be clearly shown that the party at the receiving end of the line is the party to be notified. *American Nat. Bank* v. *National Fertilizer Co.* (Tenn. 1911), 143 S.W. 597.

The principle announced in this case is sustained by *Thompson & Walkup Co.* v. *Appleby,* 5 Kan. App. 680, 48 Pac. 933, in which it was held that "while a witness may ordinarily testify to a conversation had by him through a telephone with a person, though he is not able to identify the voice of the person responding, yet, where it is sought to charge an indorser of a promissory note with liability by a notice of dishonor thus communicated it must clearly appear that the person responding was the indorser himself." Commercial transactions and conversations had over the telephone have been recognized as of the same binding force as where the parties talked face to face. *Globe Printing Co.* v, *Stahl,* 23 Mo. App. 451, 458; *Wolfe* v. *Mo. Pac. R. R. Co.,* 97 Mo. 473, 11 S.W. 49 3 L. R. A. 539: *Murphy* v. *Jack,* 142 N. Y. 215, 36 N.E. 882. 40 Am. St. Rep. 590; *Deering Co.* v. *Shumpik,* 67 Minn, 348, 69 N.W. 1088. Since the object of the notice is to inform the party to whom it is sent, that the instrument has been dishonored and that the holder looks to him for payment it would not make any difference by what means these facts are communicated provided they have actually reached, in time, the person for whom they are intended. It is to be noted that presentment and demand by telephone is not sufficient. *Gilpin* v. *Savage,* 201 N. Y. 167, 94 N. E. 650. This case is, however, not in any way in conflict with the principal case, as the object of presentment and demand is different from that of notice of dishonor. For a discussion of *Gilpin* v. *Savage* see 9 MICH. L. REV. 717.

CONSTITUTIONAL LAW—DUE PROCESS OF LAW—CRIMINAL INSANE.—Defendant was acquitted of a charge of homicide because of insanity. Following the statutory provision, the court did "forthwith commit" him to an asylum for the insane. On a petition for a writ of habeas corpus, *Held,* that the statute did not deny due process of law and the writ was denied. *Ex parte Clark* (Kan. 1912) 121 Pac. 492.

The statute is an evident endeavor to curb the tendency toward the use of the plea of insanity as a defense. It provided for release upon the order of the committing court and certificate of the superintendent of the asylum indicating recovery and public safety in such release. The court held that the certificate was not a condition precedent. The keystone of the decision is the conclusion that continuing insanity is a presumption in such cases. *In re Brown,* 39 Wash. 160; Note 1 L. R. A. (N.S.) 540; 22 CYC. 1115. Though no special procedure for release is provided, the ordinary methods are assumed as part of the statute, and in this way the court answers the due process objection. FREUND, POLICE POWER, § 355. The justification of committment, in so far as the argument may arise that the presumption cannot of itself abridge defendant's constitutional right to be heard in his own defense, (*In re Boyett* 136 N. C. 415) might be placed on the theory that it is a sort of temporary exercise for public safety pending a fair trial or proper proceedings *Brown* v. *Urquhart,* 139 Fed 846, reversed in 205 U. S. 179. This could easily be predicated on the common law. *Hadfield's Trial,* 27 How. St. Tr. 1281;

Hale, P. C. 32-35. Since the court does declare that a method of release is provided, it would by no means be recondite reasoning to construe the statute as giving the defendant, not an unconditional release, but the right *not* to be deprived of liberty without a judicial trial. This would be congruous with many constructions of "due process of law." *In re Brown, supra.* The principal case is with the trend of the present majority view. *Gleason* v. *West Boylston,* 136 Mass. 489; *Thompson* v. *Snell,* 46 Wash. 327, 9 L. R. A. (N.S.) 1191; *People ex. rel. Peabody* v. *Chandler,* 196 N. Y. 525, 25 L. R. A. (N.S.) 947. *Contra, In re Boyett, supra;* See dissent by GAYNOR, J. in *People ex rel. Peabody* v. *Chandler, supra.* For a discussion of the general subject see 9 MICH. L. REV. 126.

ELECTRICITY—INTERFERING CURRENTS.—The plaintiff, a telegraph company, maintaining and operating telegraph lines on its right of way, sued the defendant, a railway company, operating a line of electric railroad on its adjacent right of way, to restrain the latter from operating its line of railway until the same should be so constructed as not to render useless plaintiff's telegraph system by reason of the high tension currents carried in the trolley wires. *Held,* that the injunction be refused. *Postal Telegraph & Cable Co.* v. *Chicago L. S. & S. B. Ry Co.* (Ind. 1912) 97 N.E. 20.

The decision is based upon the holding in *Lake Shore & M. S. Ry Co.* v. *Chicago L. S. & S. B. Ry. Co.,* 92 N.E. 989 where, with a similar statement of facts, the court refused to apply the maxim *"Sic utere tuo ut alienum non laedas"* of *Fletcher* v. *Rylands,* I L. R. Exch. 263, as that case had been discredited in some courts of this country. Also the court said, "the defendant was a quasi-public corporation legally authorized to make a non-natural use of its land, that the use of electricity was common to both parties and both were acting under legislative authority." But undoubtedly the defendant had collected on its land something likely to do mischief, and was allowing it to escape to his neighbor's damage. The real answer to the plaintiff's claim seems to be an affirmative defense of justification. *National Telephone Co.* v. *Baker* [1893] L. R. 2 Ch. 186; *Cumberland etc. Co.* v. *United Electric Co.,* 42 Fed. 273, 12 L. R. A. 544; *Cincinnati etc. Ry. Co.* v. *City etc. Association,* 48 Ohio St. 390, 12 L. R. A. 534, 29 Am. St. Rep. 559 and notes; *Hudson River Tel. Co.* v. *Watervliet etc. Co.* 135 N. Y. 393, 17 L. R. A. 674, 31 Am. St. Rep. 838. In these cases the defendant escapes because it is using the highway as it is legally authorized to do, and because it is furthering the dominant use of the highway. And so in the principal case the defendant, although not making use of a public street, was conducting in a reasonable manner a business essential to the community. Nothing which is authorized by competent authority is a nuisance *per se.* Something more than mere incidental damages must be proved to entitle the one injured to an injunction. *Grand Rapids Ry.* v. *Heisel,* 38 Mich. 62; *Northern Trans. Co.* v. *Chicago,* 99 U. S. 635. The interests of the public are to be considered if they are affected by the injunction. *Taylor* v. *Fla. etc. Ry. Co.,* 54 Fla. 635, 16 L. R. A. (N.S.) 307; *Stewart Wire Co.* v. *Lehigh Coal Co.,* 203 Pa. St. 474. The rule is laid down in *Cumberland* v. *Elec. R. Co. supra,* that "if it were shown by the use of